

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hena Zaman	Team: Team # 2	CCRB Case #: 200608201	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/03/2006 12:00 PM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 11/3/2007	EO SOL 11/3/2007	
Date/Time CV Reported Thu, 06/15/2006 10:02 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 06/22/2006 10:02 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An Officer			
2. DT3 Tanya Venero	07742	899953	NARCBBX
3. CPT Lorenzo Johnson	00000	894081	NARCBBX
4. DT3 Lincoln Archambeau	01259	919921	NARCBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Steven Vergeli	07743	914206	NARCBBX
2. SGT John Dilapi	00382	915081	NARCBBX
3. LT Robert Hoyt	00000	896435	NARCBBX
4. DT3 Rodrigo Ayala	00821	924913	NARCBBX
5. DT3 Jason Allison	07178	921912	NARCBBX
6. DT3 Shawn Ricker	05192	925983	NARCBBX
7. DT3 Dexter Powers	06200	902222	NARCBBX
8. DT3 Francine Defeo	07461	897307	NARCBBX
9. SGT Jose Garcia	01293	917086	NARCBBX
10. DT3 Michael Orlowski	05557	913103	NARCBBX
11. DT3 Leonard Bowen	07582	913289	NARCBBX
12. DT3 Anthony Mattesi	06290	921548	NARCBBX

Officer(s)	Allegation	Investigator Recommendation
A.CPT Lorenzo Johnson	Abuse: Captain Lorenzo Johnson authorized the search and entry of § 87(2)(b)	
B. An Officer	Force: An Officer used physical force against § 87(2)(b)	
C. An Officer	Abuse: An Officer threatened to damage § 87(2)(b)'s property.	
D. An Officer	Force: An Officer used physical force against § 87(2)(b)	
E.DT3 Lincoln Archambeau	Force: Detective Lincoln Archambeau used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
F.DT3 Tanya Venero	Force: Detective Tanya Venero used pepper spray against § 87(2)(b)	
G. An Officer	Force: An Officer used a chokehold against § 87(2)(b)	
H. An Officer	Force: An Officer struck § 87(2)(b) with a blunt instrument.	
I.DT3 Tanya Venero	Discourtesy: Detective Tanya Venero spoke obscenely and/or rudely to § 87(2)(b)	

Synopsis

On May 3, 2007, § 87(2)(b) was in his girlfriend, § 87(2)(b)'s apartment located at § 87(2)(b) with his friends, § 87(2)(b) and § 87(2)(b). Officers entered the apartment with their guns drawn (allegation A). An officer threw § 87(2)(b) onto the bed and handcuffed him (allegation B). § 87(2)(b) then heard an officer say, "Tear this [apt.] shit up" (allegation C). § 87(2)(b) and his associates were escorted to the prisoner van while the remaining officers stayed in the apartment. While in the van, § 87(2)(b) removed 6-8 small bags of crack from his rectum and placed them in his mouth while he was rear cuffed. The officers noticed that something was in § 87(2)(b)'s mouth at which time § 87(2)(b) panicked and attempted to flee. An officer threw § 87(2)(b) onto the ground and another officer punched him (allegations D and E). § 87(2)(b) was then pepper sprayed (allegation F). § 87(2)(b) also felt someone choke him and strike him with a blunt instrument (allegation G and H). § 87(2)(b) was placed in the prisoner van and an officer said that he "should fucking die" (allegation I). § 87(2)(b) was subsequently transported to § 87(2)(b) from the arrest location. § 87(2)(b) filed a notice of claim against the City of New York for \$10,000,000 on July 21, 2006 (enc.20a-b).

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on June 15, 2006 (enc.9a-i). § 87(2)(b) stated that on May 3, 2006, at approximately 12:00PM, he took his § 87(2)(b) to school, which is two blocks away from his girlfriend, § 87(2)(b)'s § 87(2)(b) located at § 87(2)(b). § 87(2)(b) was wearing white sneakers, black pants and a white T-shirt. § 87(2)(b) did not make any stops and walked to § 87(2)(b) to visit his mother and stayed there for approximately 20 minutes. During that time § 87(2)(b) obtained 6-8 small bags of crack from his old bedroom and placed them in his rectum. § 87(2)(b) also placed a bag of marijuana in his right pants pocket. § 87(2)(b) was intending on smoking "woolies" which is a mixture of crack and marijuana. § 87(2)(b) then walked towards § 87(2)(b) and saw his friend, § 87(2)(b) and § 87(2)(b) went to the corner store across the street from § 87(2)(b) and purchased a Dutch Master but § 87(2)(b) did not purchase anything. § 87(2)(b) did not notice any officers or police vehicles at this time. § 87(2)(b) utilized a spare key given to him by § 87(2)(b) and went back to her apartment to play video games in the living room. During this time, § 87(2)(b)'s brother, § 87(2)(b) who lives in New Jersey, was in the bedroom. § 87(2)(b) denied that he used any drugs during this time.

While § 87(2)(b) and § 87(2)(b) were sitting in the first bedroom, § 87(2)(b) heard a big "bang" and saw PO1, (male, black, dreads, heavy build, champion sweatshirt, § 87(2)(b) old) who had a silver 9mm gun pointed at him, enter the bedroom with four other officers behind him in the hallway. The officers used a ram to gain entry and the frame of the door was bent and damaged as a result of the entry. No other officers had their gun drawn or pointed. PO1 instructed § 87(2)(b) to "get down", which he did and then handcuffed him. PO2 (male, white, facial hair, black hair, 6'1) threw § 87(2)(b) on the bed and handcuffed him. § 87(2)(b) was in the second bedroom and was escorted to the living room which is where § 87(2)(b) and § 87(2)(b) were now situated. § 87(2)(b) stated that he and his friends were compliant. PO1 searched § 87(2)(b) and retrieved his keys and wallet, which were in rear pants pocket but did not recover the drugs. PO1 told the officers to "tear this [the apt.] shit up." PO1, PO2 and PO3 (female, white, blond hair, skinny, plainclothes) escorted the three males out of the building through the rear door and were then placed into a silver minivan. The apartment was not searched in front of § 87(2)(b).

PO4 (female, Hispanic, short, skinny, plainclothes) and PO5 (male, Hispanic, spiky hair, red jersey, § 87(2)(b) years old) remained inside the apartment while PO 2 and PO3 were standing outside of the vehicle and PO1 went back into the building. There was also a green unmarked Pontiac sedan parked outside. § 87(2)(b)

explained that as he was rear cuffed, he removed the bags from his rectum, placed them onto his right thigh and then put them in his mouth by lifting up his leg. § 87(2)(b) was unable to swallow the bags and they remained in his mouth. PO2 then came to the vehicle and opened the door and asked § 87(2)(b) for his name. § 87(2)(b) was unable to clearly speak since he had the drugs in his mouth. PO2 saw the drugs at which point § 87(2)(b) panicked and jumped out of the car and landed on the sidewalk, not too far from the car. All of the officers were downstairs now. PO2 then threw § 87(2)(b) onto the ground (he landed on his chest), punched him in the face twice while PO1 repeatedly kicked him in the groin. PO4 then pepper sprayed § 87(2)(b) once. At this time, § 87(2)(b) also felt two hands around the front of his neck, choking him in an attempt to retrieve the drugs and also stretched his mouth open. § 87(2)(b) explained that since his breathing was restricted for a few seconds, he spit the drugs out of his mouth. § 87(2)(b) denied that he swallowed anything. An officer also struck § 87(2)(b) 2-3 times in the back of his head with an object, causing a knot in his head. § 87(2)(b) did not see the officers carrying anything in their hands. § 87(2)(b) did not know who choked him and struck his head because the officers were behind him and his head was down.

§ 87(2)(b) was then forcefully thrown into the car by all of the officers and landed on the floor of the car. § 87(2)(b)'s neck twisted and collided with the interior of the car. § 87(2)(b)'s neck began to hurt because of this and he also felt nauseous and began "gagging." § 87(2)(b) began yelling that § 87(2)(b) was unable to breathe to which PO4, who was situated in the front passenger seat, responded that § 87(2)(b) "should fucking die." PO2 was the operator of the vehicle. § 87(2)(b) did not recall throwing up and was unable to move while he was in the car. PO4 called an ambulance and § 87(2)(b) was transported to § 87(2)(b) with PO1, PO2 and PO5. At the hospital, § 87(2)(b) willingly gave the marijuana, which was in his pocket, to PO1. § 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) did not have drugs on their person. § 87(2)(b) was discharged from the hospital on § 87(2)(b) and was then taken to central booking by officers from the 40th PCT. § 87(2)(b) was incarcerated § 87(2)(b). § 87(2)(b) was given a CAT scan and was informed that he had a blood clot on his head. After § 87(2)(b) was released he retrieved his wallet and keys. During the incident, numerous witnesses were outside but § 87(2)(b) did not have any information for them during his interview. § 87(2)(b) also had injuries around his wrists from the handcuffs. § 87(2)(b) was not searched or strip-searched. § 87(2)(b) also found out that an officer had a broken wrist and jaw but § 87(2)(b) denied that he physically assaulted the officers.

On February 6, 2007, at the CCRB, § 87(2)(b) viewed at one time fourteen single photographs (of all the officers who were listed on the warrant execution plan). All identifying information that appears in the photographic images was covered when § 87(2)(b) viewed them. The fourteen officers depicted in the photographs are:

- Photo 1 (Det. Vergeli)
- Photo 2 (Det. Ayala)
- Photo 3 (Lt. Hoyt)
- Photo 4 (Det. Venero)
- Photo 5 (Det. Bowen)
- Photo 6 (Sgt. Dilapi)
- Photo 7 (Det. Orlowski)
- Photo 8 (Det. Acrhambeau)
- Photo 9 (Sgt. Garcia)
- Photo 10 (Det. Defeo)
- Photo 11 (Filler for Lt.)
- Photo 12 (Det. Powers)
- Photo 13 (Det. Ricker)
- Photo 14 (Det. Allison)

Upon viewing the photographs, § 87(2)(b) said he recognized #4 as the officer who entered the apartment and the officer who was also outside when § 87(2)(b) was by the van. § 87(2)(b) recognized #8 as the officer who came into the apartment with his gun and shield. § 87(2)(b) recalled that this officer hit him in the back of his head with a blunt instrument that may have been a radio. § 87(2)(b) recognized #14 as one

of the officers who entered the apartment and also was at the hospital. § 87(2)(b) was not sure of #1, #2, #3, #6, #7, #9, #10, #11 or #13. § 87(2)(b) did not recognize #5 and #12 (enc.10a-p).

Results of Investigation

Efforts to Locate and Interview Additional Civilians

Contact letters were sent to § 87(2)(b) and § 87(2)(b) at the addresses obtained from the arrest reports. Metrosearch confirmed that § 87(2)(b) resides at the address obtained from police documents however a phone number was not located. DMV did not produce any hits for § 87(2)(b) and the letters that were sent to § 87(2)(b) were returned because the apartment was “vacant.” To date, neither § 87(2)(b) nor § 87(2)(b) have contacted the CCRB.

Det. Vergeli (enc.12a-b)

Det. Vergeli was interviewed at the CCRB on March 29, 2007. On May 3, 2006, Det. Vergeli was the assigned arresting officer and was executing a search warrant. Det. Vergeli was assigned to an unmarked RMP and was dressed in plainclothes. The following is Det. Vergeli’s daily activity report which starts at 9:27AM and ends at 2:00AM, “ERT V/O § 87(2)(b) w/ Sgt. Dilapi in R/A § 87(2)(e), § 87(2)(f). A/A W/A and with field team. ERT to execute S/W # § 87(2)(b) with above field team. Execute search warrant for § 87(2)(b) 3 arrests at 12:00 hrs. Searching house for evidence with Sgt. Dilapi. Above location secured. ERT 40 Precinct processing arrest. A/A with above 40 Pct. Processing. ERT W/A IR R/A § 87(2)(e), § 87(2)(f) BXND.”

Det. Vergeli stated that he was assigned to a search warrant for drugs at § 87(2)(b). There was damage to the door. Upon reviewing the execution plan, Det. Vergeli stated that Sgt. Dilapi, Lt. Hoyt, Det. Ayala and Det. Allison were part of the entry team. Sgt. Dilapi and Det. Vergeli had their guns pointed upon entry. Lt. Hoyt remained in the hallway at this time. Det. Vergeli secured the premises. The subjects were located inside the apartment and the apartment was subsequently searched. Det. Vergeli independently recalled that § 87(2)(b) was arrested however he was unable to recall the other arrests that were made. No physical force was used to apprehend the subjects, who were cooperative. The cuff team, Det. Allison and Det. Ricker, handcuffed the subjects. Det. Vergeli searched § 87(2)(b) for the officers’ safety. Other officers may have searched the other defendants. The hallway security team, Det. Defeo and Det. Venero, would have transported the prisoners to the van. Det. Vergeli, Det. Ayala and another officer remained behind. Det. Vergeli searched the whole apartment and obtained crack from one of the bedrooms. He also obtained two shotgun rounds and a bb gun. Approximately 15-20 minutes into the search, Det. Vergeli received a transmission that a scuffle had taken place outside. Det. Vergeli did not go outside and remained in the apartment for approximately 1 hour. Det. Vergeli could not recall which officers went outside to offer assistance. Det. Vergeli and Sgt. Dilapi left the apartment together.

When Det. Vergeli went outside, § 87(2)(b) was in the P-van. Det. Vergeli was informed that Det. Mattesi was kicked in the mouth and Det. Powers got hurt as well. Det. Mattesi had a busted lip. Det. Vergeli did not know if EMS responded to the location. Det. Mattesi received medical attention at the hospital. Det. Vergeli was also informed that § 87(2)(b) had drugs in his mouth which were recovered before Det. Vergeli responded to the location. The drugs were vouchered as evidence. Det. Vergeli did not know how or who obtained the drugs. The defendant was transported to the precinct and Det. Vergeli saw him at the stationhouse an hour and a half later but did not interact with him. Det. Vergeli was in an unmarked mini van with Sgt. Dilapi and a few other officers. Det. Vergeli did not know if § 87(2)(b) was pepper sprayed nor did he know if a blunt instrument was used during the scuffle. Det. Vergeli did not observe any injuries on § 87(2)(b). Det. Vergeli did not know that § 87(2)(b) was transported to the hospital. Det. Vergeli did not know if marijuana was recovered from § 87(2)(b). No other officers responded to the location. Det. Vergeli did not have previous interactions with § 87(2)(b). No threats to damage property were made. § 87(2)(b)’s breathing was not restricted, he was not placed in a chokehold and no profanities were used.

Det. Allison (enc.15a-b)

Det. Allison was interviewed at the CCRB on March 29, 2007. On May 3, 2006, Det. Allison executed a search warrant and was working in plainclothes with numerous officers. Det. Allison was assigned to an unmarked vehicle. At the time of the CCRB interview, Det. Allison did not have his memo book.

Det. Allison stated that he was a member of the field team, executing a search warrant for narcotics. Det. Allison did not know who was assigned to the warrant or how long the location was being investigated. Det. Allison stated that he was assigned to cuff and toss and was also holding the hydro ram but did not have an independent recollection if he actually utilized it. Had it been used, the door would have been damaged. Det. Allison stated that the bunker officer entered first, followed by bunker security and then Det. Allison. Both the bunker and bunker security had their guns pointed upon entering the location. An unknown amount of individuals were located and apprehended at which time the arresting officer conducted the search of the apartment. Det. Allison viewed § 87(2)(b)'s arrest photo and stated that he looked familiar but he could not place him at the scene of the incident. Det. Allison stated that nothing unusual occurred during the execution of the warrant. The defendants were transported to the prisoner van by an unknown officer at which time Det. Allison and a few other officers remained in the apartment to conduct a search. Generally the arresting officer conducts the search of the apartment however Det. Allison could not recall who conducted the search in this case. Det. Allison could not recall if he handcuffed anyone. He stated that he could not recall if a struggle took place in the apartment. No physical force was used in apartment. The defendants are searched for weapons upon gaining entry however Det. Allison did not know who conducted the search. Det. Allison did not know if any narcotics were obtained as a result of the search. Det. Allison received a call over the radio that officers needed assistance outside. Det. Allison immediately ran downstairs. Other officers had followed Det. Allison outside while some stayed inside.

Det. Allison observed Det. Mattesi and Det. Powers, attempting to restrain § 87(2)(b) at the rear of the p-van. The doors of the van were open and the officers had § 87(2)(b)'s upper body pinned up against the crook of the doors. § 87(2)(b) was struggling and tried to get away from the officers. Det. Allison was told that § 87(2)(b) swallowed an amount of crack. Det. Allison later found out that when an officer went to check up on the prisoners in the p-van, § 87(2)(b) kicked one of the officers in the face and then attempted to flee. § 87(2)(b) exited the vehicle at which point the officers subdued him and pinned him against the vehicle in an attempt to place him inside. Det. Allison assisted the officers in taking § 87(2)(b) down to the ground since he was still combative and refused to get into the vehicle. § 87(2)(b) was kicking. Det. Allison chained § 87(2)(b)'s ankles with leg irons and held him down until he calmed down. Det. Allison did not get injured and did not know if other officers got injured. Numerous officers had § 87(2)(b) pinned facedown to the ground at this point. The other prisoners were still in the van. Additional units did not respond.

Det. Allison did not know how or when § 87(2)(b) placed the drugs in his mouth. § 87(2)(b) expressed that he swallowed bags of crack at which point Det. Allison dispatched an ambulance to the arrest location. Det. Allison asked § 87(2)(b) how many bags he had swallowed but § 87(2)(b) could not specify an amount. At some point, § 87(2)(b) started to choke and spit the drugs out. The officers did not try to retrieve the bag from his mouth. § 87(2)(b) was never placed in a chokehold. Det. Ricker transported § 87(2)(b) to § 87(2)(b) with EMS. Det. Allison did not witness EMS conduct an examination. Det. Allison followed EMS in his RMP. Some officers went back to the apartment to complete the search and the others transported the two defendants to the stationhouse. At the hospital, Det. Allison stated that § 87(2)(b)'s mouth was swollen from the drugs and he had calmed down at this point. § 87(2)(b) did not complain of any injuries nor did Det. Allison observe any visible injuries. Det. Allison's post was relieved by other officers after a few hours. Det. Allison never retrieved marijuana from § 87(2)(b). § 87(2)(b) was not struck with a blunt instrument. Det. Allison did not know if § 87(2)(b) was pepper sprayed. Det. Allison denied that any profanities were used and denied that officers threatened to damage or seize property. Det. Allison did not encounter § 87(2)(b) again.

Det. Powers (enc.16a-b)

Det. Powers was interviewed at the CCRB on April 20, 2007. On May 3, 2006, Det. Powers worked the day tour and was assigned to execute a search warrant with Sgt. Dilapi, Det. Vergeli, Det. Mattesi, Det. Defeo and Det. Venero. Det. Powers was wearing a raid jacket and was assigned to an unmarked vehicle. Det. Powers did not have his memo book at the time of the CCRB interview.

Det. Powers recalled that a search warrant was executed at § 87(2)(b). Det. Powers was assigned to cuff and toss and recalled that the apartment door had been forced open with a ram so there was damage.

§ 87(2)(e)

There were two individuals in the bedroom. Det. Powers handcuffed one defendant and did not know who handcuffed the second defendant. Det. Powers stated that he did not struggle with anyone during this time and to his knowledge, no one else offered resistance. The two defendants were escorted to the living room at which time a third defendant was brought out from another bedroom. Approximately twenty minutes later, Det. Powers, Det. Mattesi and another officer transported the defendants to the p-van. The remaining officers remained in the apartment to conduct the search. Det. Mattesi was situated in the driver side of the van and Det. Powers was in the front passenger seat. The officers exited the van and went to the rear to obtain the defendants' pedigree information. When Det. Mattesi asked § 87(2)(b) a question, he realized that he was chewing something. Det. Powers noticed a blue substance in § 87(2)(b)'s mouth. Det. Powers did not know how § 87(2)(b) put the contents in his mouth because Det. Powers did not observe anything in his mouth prior to being escorted downstairs. § 87(2)(b) attempted to jump out of the van at which time and landed on his feet, not too far from the van. His head collided with Det. Powers' head at which time Det. Powers caught him. A struggle ensued at which point Det. Powers and Det. Mattesi took § 87(2)(b) to the ground. § 87(2)(b) landed facedown. The officers called over for assistance. Some of the officers from the field team came downstairs and instructed the defendant to stop kicking and that he would be pepper sprayed if he continued to behave in such a manner. § 87(2)(b) was still combative while Det. Powers was on the ground with him, holding down his arms with the assistance of other officers. Det. Powers heard an officer instruct him to turn his head because he was going to pepper spray § 87(2)(b). § 87(2)(b) was eventually pepper sprayed however Det. Powers did not know who did this. The other two defendants were making verbal outbursts but they did not try to physically intervene with the arrest. § 87(2)(b) then began to choke and spit out approximately ten bags of crack cocaine. § 87(2)(b) calmed down by this time. An officer then recovered the bags from the ground. The officers did not try to retrieve the bags from § 87(2)(b)'s mouth and he was never placed in a chokehold. Det. Powers, who had a head injury, and Det. Mattesi, who had a wrist injury, went to the hospital. Two members from the field team transported § 87(2)(b) to the hospital from the incident location because he was pepper sprayed. Det. Powers did not observe any injuries on § 87(2)(b) nor did he complain of any injuries. Det. Powers established that no one struck § 87(2)(b) with a blunt instrument. Officers did not use profanities nor did they threaten to damage or seize property.

Det. Mattesi (enc.17a-b)

Det. Mattesi was interviewed at the CCRB on May 3, 2007. On May 3, 2006, Det. Mattesi was assigned to warrant enforcement with Det. Powers. Det. Mattesi was assigned to an unmarked RMP and was in plainclothes. Det. Mattesi could not recall his exact assignment for the warrant execution. Det. Mattesi misplaced his memo book and therefore could not provide his entries.

Det. Mattesi recalled that he was at § 87(2)(b) to execute a search warrant. Det. Mattesi could not recall if he was assigned to hallway security or cuff and toss. (Det. Mattesi was not listed on the tactical plan therefore his assignment was not confirmed.) § 87(2)(e)

Once the location was secured, three defendants were apprehended in the apartment. Det. Mattesi did not know who apprehended and searched the individuals and did not know if there was a struggle in the apartment. Det. Mattesi and Det. Powers escorted the three defendants to the prisoner van. The remainder of the field team stayed behind to conduct a search of the apartment. At this time Det. Mattesi did not observe anything unusual about the defendants. The prisoners were placed in the van. Det. Mattesi explained that § 87(2)(b) was seated on a bench behind the driver and passenger seats, facing the street. The rear doors of the van were open and Det. Mattesi observed § 87(2)(b) chewing something. § 87(2)(b) then attempted to flee and tried to jump out of the van. Det. Powers and Det. Mattesi were able to catch § 87(2)(b) while he was in mid air. § 87(2)(b) resisted and the officers took him to the ground. § 87(2)(b) was wrestling with the officers who at this point were trying to control him. A radio transmission was put over and some officers from the field team responded. An unknown officer pepper sprayed § 87(2)(b) who then spit out numerous bags of crack. An officer retrieved the bags from the ground for arrest evidence. Det. Mattesi denied that § 87(2)(b) was placed in a chokehold. Officers did not try to retrieve the drugs from § 87(2)(b)'s mouth. The other two defendants did not intervene in the situation. Det. Mattesi and Det. Powers left the location and went to the hospital for injuries they sustained on their wrists. § 87(2)(e)

§ 87(2) was taken to the hospital from the location because of ingesting drugs. Det. Mattesi could not recall if an ambulance was called to the location. § 87(2)(b) did not complain of any injuries though he could have had scrapes and abrasions as a result of the scuffle. Det. Mattesi denied that officers used profanities or threatened to damage property. Det. Mattesi denied that § 87(2)(b) was struck with a blunt instrument. Det. Mattesi did not encounter § 87(2)(b) again.

Det. Defeo (enc.13a-b)

Det. Defeo was interviewed at the CCRB on February 20, 2007. On May 3, 2006, Det. Defeo worked in plainclothes from 10:00AM to 6:00PM with Det. Venero and was assigned to walk-on. Det. Defeo was assigned to an unmarked vehicle. She did not have her memo book at the time of the CCRB interview.

Det. Defeo recalled that a warrant was executed at § 87(2)(b). Det. Defeo and Det. Venero were both on walk-on duty and gained access into the building at which time the location was secured for the team to gain entry. After the warrant was executed, the field team put over a transmission that the location was secure. At this time, Det. Defeo went upstairs and secured the hallway to make sure no one stole the department equipment from the corridor. Det. Defeo could not recall if the apartment was being searched at this time. Upon arriving at the apartment, Det. Defeo did observe damage on the door. Other officers escorted three prisoners to the P-van. Det. Venero was downstairs at this time. Det. Defeo did not know if the officers had difficulty apprehending the individuals. Det. Defeo went outside after thirty minutes. She saw that there was a commotion and EMS was at the scene. Det. Defeo smelled pepper spray and assumed that an officer utilized it in her absence. Det. Defeo observed EMS place one of the defendants, § 87(2)(b) into the ambulance. § 87(2)(b) was complaining that his eyes were burning but Det. Defeo did not observe any physical injuries. Det. Defeo saw crack on the ground and later found out that § 87(2)(b) spit the drugs out of his mouth. Det. Defeo did not see how the drugs were obtained but recalled that Det. Venero secured the drugs. No officers placed § 87(2)(b) in a chokehold. Det. Defeo recalled that a few officers went to the hospital for injuries they sustained during a struggle that took place when she was not there. Det. Defeo and Det. Venero transported the remaining two defendants to the stationhouse. § 87(2)(b) was physically combative and irate throughout the duration of the incident. Det. Defeo did not know what was recovered from the apartment and did not know if marijuana was recovered from the defendant's person. Det. Defeo did not report to the hospital and did not encounter the defendant again. Det. Defeo did not observe any officer strike § 87(2)(b) with a blunt instrument nor did she hear any officer use profanities. Det. Defeo did not know if a threat to damage/seize property was made. She did not discharge her pepper spray. Det. Defeo stated that the officers assigned to bunker and bunker security would have their guns pointed. No physical force used against two other defendants, they were compliant. Det. Defeo did not encounter the defendant after he left the arrest location. She did not recognize § 87(2)(b) from prior interactions.

Det. Venero (enc.14a-b)

Det. Venero was interviewed at the CCRB on February 20, 2007. On May 3, 2006, Det. Venero worked in plainclothes from 10:00AM to 6:00PM. Det. Venero was utilizing an unmarked rental auto and was assigned to warrant enforcement with Det. Defeo, Sgt. Dilapi and Det. Mattesi. Det. Venero did not have her memo book at the time of her CCRB interview.

On May 3, 2006, Det. Venero was assigned as the walk-on for a warrant that was executed at § 87(2)(b). Det. Venero explained that her duties were to secure the lobby and elevators for the field team. Upon reviewing the execution plan, Det. Venero was unable to identify who was part of the entry team but recalled that Det. Defeo was also a walk-on. Det. Venero recalled that at approximately 12:00PM, she was at § 87(2)(b) and held the door for the field team, who then proceeded to move in. Det. Venero remained downstairs, by the car. Shortly after, several officers escorted three defendants downstairs and placed them in the P-van. Det. Venero did not know if a struggle took place in the apartment. The remainder of the team conducted a search of the apartment for the next two hours. Det. Venero did not know if anything was recovered as a result of the search. Det. Venero was in another car, away from the P-van but heard arguing. She walked over and saw several officers running out of the building, presumably responding to a call for assistance. The defendant was in handcuffs and on the ground, in front of the van. The defendant was kicking and squirming around. Det. Venero did not know how the defendant ended up on the ground.

Det. Venero noticed that the defendant had drugs in his mouth. An officer instructed the defendant to spit the drugs out. The defendant became irate and combative and started kicking the officers. An officer pepper sprayed the defendant at which point the defendant spit the drugs out and started to cough. Det. Venero picked up the drugs, which were in chewed up plastic bags and placed them in a bag. No officer tried to physically retrieve the drugs out of the defendant's mouth. The defendant was not placed in a chokehold or struck with a blunt instrument. An ambulance was called to the location and the defendant was transported to the hospital with a police escort. Det. Venero did not observe any injuries nor did the defendant complain of any injuries. Det. Venero (operator) and Det. Defeo transported the remaining prisoners to the 40th Precinct, processed them and then transported them to central booking. The defendant was physically combative throughout the duration of the incident. Det. Venero did not have physical contact with the defendant. Det. Mattesi sustained scrapes on his hands from the concrete and two additional officers were injured, possibly from the pepper spray. The injured officers were driven to the hospital. Det. Venero was unable to positively identify § 87(2)(b) from his arrest photo. She did not encounter him again and never reported to the hospital. Det. Venero did not know who had their guns pointed upon entry and did not know if the door was damaged. No officer threatened to damage property and no officer used profanities. Det. Venero did not know if marijuana was obtained from the defendant's person.

Det. Archambeau (enc.18a-b)

Det. Archambeau was interviewed at the CCRB on May 18, 2007. On May 3, 2006, Det. Archambeau was unable to recall which tour he worked but was able to recall that he was assigned to a walk on during the execution of a warrant. Det. Archambeau was dressed in plainclothes and was assigned to an unmarked burgundy sedan. Det. Archambeau did not have his memo book at the time of his CCRB interview.

Det. Archambeau recalled that as a walk on, he was assigned to open the main doors of § 87(2)(b) so that the field team can easily gain entry into the housing development in order to execute the warrant. Upon reviewing the tactical plan, Det. Archambeau was unable to identify which officers were assigned to the field team. Upon successfully opening the doors, Det. Archambeau contacted the field team via radio at which time they entered the location. The field team then went into the elevator and proceeded to gain entry into the apartment. Within a few minutes, Det. Archambeau went upstairs and was now assigned to hallway security. Det. Archambeau was unable to recall if any other officer was assigned to this post. Upon arriving at the apartment, Det. Archambeau observed the officers breaching the door § 87(2)(e) After approximately twenty minutes, some members of the field team brought out three defendants who were then escorted to the prisoner van outside. Det. Archambeau did not recognize § 87(2)(b) from his arrest photo. Det. Archambeau remained in the hallway and collected the department apparatus (bunker and vests) which he then brought down to his vehicle. Det. Archambeau never entered the apartment and did not know if there was a struggle inside.

During this time, Det. Archambeau observed members of his field team running towards the prisoner van from the building. Det. Archambeau was unable to identify which officers were at the scene. Det. Archambeau secured the equipment in his vehicle and then followed his field team. Det. Archambeau saw officers pick up one of the defendants, who was in handcuffs, off of the ground and place him against the prisoner van. Det. Archambeau could not recall what happened after this. After a few minutes, Det. Archambeau returned to the command. Det. Archambeau did not why or how the defendant was on the ground. Det. Archambeau did not witness a struggle. Det. Archambeau stated that no officer used a blunt instrument to strike the defendant nor did he observe any officer place the defendant in a chokehold. Det. Archambeau did not interact with the defendant and did not see anything in his mouth. The defendant did not complain of any injuries and Det. Archambeau did not observe any injuries. Officers did not use profanities nor did they threaten to damage property. Det. Archambeau recalled that some of the officers sustained injuries however he did not know the circumstances that lead up to their injuries. Det. Archambeau could not recall if EMS was called to the location and did not know who transported the defendants to the stationhouse. Det. Archambeau later learned that narcotics were recovered from the defendant and that he was pepper sprayed however Det. Archambeau did not witness this.

Police Documents

Sprint records indicated that the narcotics officers requested one unit to the scene at 12:20PM and at 12:27PM the narcotics sergeant arrived at the scene and no further units were needed. EMS was requested to respond to § 87(2)(b) for an injured prisoner. EMS arrived and transported the prisoner to § 87(2)(b) (enc.21a-c). § 87(2)(b)'s OLBS indicated that § 87(2)(b) kicked two officers thus causing injuries. § 87(2)(b) put over a dozen bags of crack cocaine in his mouth and admitted that he swallowed eight of them and also resisted the arrest. Two shotgun rounds and a bb gun were found in the apartment. It has been noted that a chemical agent was used to restrain the defendant (enc.22a-c). Both § 87(2)(b) (enc.24a-c) and § 87(2)(b)'s (enc.23a-c) § 87(2)(a) 160.50
§ 87(2)(b). The warrant form indicated that § 87(2)(b) issued a warrant for § 87(2)(b) § 87(2)(b). The warrant was for narcotics and Det. Vergeli was the requesting officer (enc.29a-b). The pre-execution plan indicated that Capt. Johnson was the overall supervisor and that Lt. Hoyt was the entry supervisor. Sgt. Dilapi was the team leader. Det. Vergeli and Det. Ayala were assigned to bunker and bunker security. Det. Allison and Det. Ricker were assigned to cuff and toss. Det. Powers was assigned to hall security. Det. Archambeau and Sgt. Garcia were assigned as the walk-on. Det. Venero and Det. Defeo were assigned to outside security/hospital car. Finally, Det. Orlowski and Det. Bowen were assigned to hydro ram (enc.30b). § 87(2)(a) 160.50
§ 87(2)(b) It has been noted that the subject offered physical resistance and that officers sustained injuries (enc.31a). § 87(2)(a) 160.50
§ 87(2)(b) When Det. Mattesi and Det. Powers attempted to remove § 87(2)(b) from the prisoner van, he began kicking and wrestling with the officers on the ground. Both officers sustained a sprained wrist and received treatment at the hospital (enc.32a-c).

Medical Documents

The ACR states that EMS responded to § 87(2)(b) and treated § 87(2)(b) who was in police custody. § 87(2)(b) stated that he swallowed eight bags of crack prior to being arrested. § 87(2)(b) had a swollen tongue and the presumptive diagnosis was recorded as drug overdose. There were no signs of trauma. It has been noted that the officers reported the chief complaint as, "He swallowed crack." Records from § 87(2)(b) indicated that EMS brought in § 87(2)(b) because he swallowed eight bags of crack cocaine. § 87(2)(b) denied that he used any other substance or alcohol. § 87(2)(b) complained of mild abdominal discomfort. § 87(2)(b) refused to take Golytely for bowel cleansing because he stated that he never swallowed anything. § 87(2)(b) denied any other complaints except for dizziness. A CAT scan was performed. § 87(2)(b) was admitted into the hospital and was diagnosed § 87(2)(b)
§ 87(2)(b)

CCRB Histories

Officers

Captain Lorenzo Johnson, in his 19th year on the force, does not have any substantiated allegations in his CCRB history. Captain Johnson is currently a subject officer in case numbers 200702018 and 200605025, which is pending board review (enc.5a).

Det. Venero, in her sixteenth year on the force, does not have any substantiated allegations in her CCRB history (enc.4a).

Det. Archambeau, in his 9th year on the force, does not have any substantiated allegations in his CCRB history (enc.6a).

Civilians

§ 87(2)(b)
§ 87(2)(b)

Status of Criminal Charges and Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conclusions and Recommendations

Undisputed Facts

It is not in dispute that on May 3, 2006, a valid search warrant was executed at § 87(2)(b). § 87(2)(b), § 87(2)(b) and § 87(2)(b) were arrested at the location. While in custody, § 87(2)(b) placed numerous bags of crack cocaine in his mouth and EMS was subsequently called to the location. § 87(2)(b) was transferred to § 87(2)(b) where he was diagnosed with a drug overdose.

Assessment of the Evidence

On May 3, 2006, a no knock warrant was executed at § 87(2)(b). Officers secured the location and arrested § 87(2)(b), § 87(2)(b) and § 87(2)(b). While a search was being conducted inside the apartment, the prisoners were removed to the prisoner van. During this time, § 87(2)(b) while he was rear cuffed, removed bags of crack cocaine from his rectum and placed them in his mouth. As officers noticed this, § 87(2)(b) tried to flee and attempted to jump out of the vehicle. Det. Powers and Det. Mattesi apprehended § 87(2)(b) at which point a struggle ensued. § 87(2)(b) never mentioned that he was pepper sprayed however the officers established that § 87(2)(b) was pepper sprayed at which point his spit the drugs out of his mouth. § 87(2)(b) alleged that he was placed in a chokehold and hit with a blunt instrument however he was unable to describe the officers who allegedly engaged in these acts. EMS was called to the location and § 87(2)(b)'s medical records did not note any physical injuries. Two officers sustained injuries and sought medical treatment. § 87(2)(b) was taken to the hospital and diagnosed with a drug overdose.

Allegations

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) alleged that PO1 was the officer who initially entered the apartment and had his gun pointed at him. Based on Det. Archambeau's statement and the tactical plan, Det. Archambeau was assigned to walk on duties. He was in charge of guarding the main door of the building and then went upstairs to secure the department equipment after the team had already gained entry into the apartment. § 87(2)(g)

§ 87(2)(b) alleged that PO1 was the officer who also kicked him and punched him while he was outside. Det. Archambeau established that he was at the scene when § 87(2)(b) was outside of the van. § 87(2)(g)

§ 87(2)(b) also stated that PO4, who was described as a Hispanic female, entered the apartment as well. The only Hispanic female listed on the tactical plan is Det. Venero, who was assigned to walk on duties. Det. Venero stated that she never entered the apartment and stayed outside when the officers gained entry.

§ 87(2)(g)

Allegation A: Captain Lorenzo Johnson authorized the search and entry of § 87(2)(b)

§ 87(2)(b) alleged that the officers entered his apartment, damaged his door, searched his apartment and pointed their guns at him. § 87(2)(g)

Criminal Procedure Law establishes the manner by which officers may execute a search warrant. Officers must give the occupant of the specified location notice of their authority and purpose before entering the apartment, unless the warrant includes a provision relieving the officer from this requirement (enc.1a). § 87(2)(b), § 87(2)(g), § 87(2)(e)

Allegation B: An Officer used physical force against § 87(2)(b)

§ 87(2)(b) alleged that an officer threw § 87(2)(b) onto the bed and then handcuffed him. § 87(2)(b), § 87(2)(g)

Allegation C: An Officer threatened to damage § 87(2)(b)'s property.

§ 87(2)(b) stated that before he was escorted to the prisoner van, PO1 said, "Tear this [apt.] shit up." The officers interviewed in connection with this case denied this allegation and the investigation was unable to reveal if this was said or by whom. § 87(2)(g)

Allegation D: An Officer used physical force against § 87(2)(b)

Allegation E: Detective Lincoln Archambeau used physical force against § 87(2)(b)

Allegation F: Detective Tanya Venero used pepper spray against § 87(2)(b)

§ 87(2)(b) alleged that an officer threw him to the ground at which point Det. Archambeau then punched and kicked him. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) attempted to flee while in custody and was apprehended by Det. Powers and Det. Mattesi. The officers tackled § 87(2)(b) who was physically resisting, to the ground. As the officers continued to wrestle with § 87(2)(b) Det. Venero allegedly pepper sprayed § 87(2)(b). Patrol Guide procedure 203-11 states, "Only that amount of force necessary to overcome resistance will be used to effect an arrest..." (enc.2a). Patrol Guide Procedure 212-95 states, "O.C. pepper spray may be used when a member reasonably believes it is necessary to effect an arrest of a resisting suspect, for self-defense or defense of another from unlawful force..." (enc.3a) § 87(2)(g), § 87(2)(b)

Allegation G: An Officer used a chokehold against § 87(2)(b)

Allegation H: An Officer struck § 87(2)(b) with a blunt instrument.

§ 87(2)(b) alleged that while he was on the ground, an officer choked him in an attempt to retrieve the drugs out of his mouth at which time he was hit in the head with a blunt instrument. § 87(2)(b) did not see which officer committed these alleged acts. When § 87(2)(b) viewed a photo array, he identified Det. Archambeau as the officer who struck him on the head. § 87(2)(b), § 87(2)(g)

Allegation I: Detective Tanya Venero spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) stated that when he was in the van, Det. Venero told him that he "should fucking die." Det. Venero and the other officers interviewed in connection with this case denied this allegation. § 87(2)(b) s

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: